

**COURT OF COMMON PLEAS
FOR THE STATE OF DELAWARE
KENT COUNTY COURTHOUSE
DOVER, DELAWARE 19901
PHONE: (302) 739-4618**

**CHARLES W. WELCH, III
JUDGE**

July 20, 2010

Ms. Sherena DeLeon
1679 S. State Street, B-6
Dover, DE 19901

Mr. Brandon Eskridge
9415 Middleford Road
Seaford, DE 19973

RE: In the matter of Ayonna Shaynne Eskridge and Aysia Symone Eskridge
C.A. Nos.: CPU5-10-001296 and CPU5-10-001297

Decision on Petitions for Name Change of Minor Children

Dear Ms. DeLeon and Mr. Eskridge:

These matters involve a request for the name change of two minor children, Ayonna and Aysia Eskridge, pursuant to Chapter 59 of Title 10 of the Delaware Code. The petitions request that their last name be changed to DeLeon. They were filed by their natural mother, Sherena DeLeon, who is pursuing these name changes on their behalf. The petitions are contested by their natural father, Brandon Eskridge. A hearing for these matters was held on June 25, 2010. They were consolidated at the hearing for convenience. At the conclusion of the hearing, the Court reserved decision. This correspondence constitutes the Court's decision. The petitions are denied.

Through the testimony of the parties at the hearing, it was established that Ms. DeLeon and Mr. Eskridge are the natural parents of Ayonna and Aysia, who are four and ten years of age respectively. Ms. DeLeon and Mr. Eskridge had a 15-year relationship and were living together when the children were born. They separated approximately three years ago.

Ms. Sherena DeLeon
Mr. Brandon Eskridge
July 20, 2010
Page Two

Ms. DeLeon has full custody of Ayonna and Aysia. Mr. Eskridge is allowed visitation at the Family Visitation Center. Although Mr. Eskridge has never utilized the Family Visitation Center, he visits with the children when they are at his mother's home. Ms. DeLeon visits with Mr. Eskridge's family regularly. She takes the children to family gatherings and allows the children to spend the night at Mr. Eskridge's mother's home. Ms. DeLeon provides primary financial support for the children while Mr. Eskridge pays child support. He is currently in arrears, but, has made three payments totaling more than \$2,000.00 since February 2010. Mr. Eskridge got behind on child support payments when his hand was nearly severed in 2007 and he was out of work for 13 months.

Ms. DeLeon has filed the petitions for name change for Ayonna and Aysia, desiring to change their last name from Eskridge to her maiden name, DeLeon, because she believes it is in their best interests. Ms. DeLeon testified that Mr. Eskridge is not a part of the children's lives and that the ten-year old child, Aysia, desires the name change.

Ms. DeLeon also testified that she believes Mr. Eskridge poses a danger to the children because of his history of violence and substance abuse. She indicated that Mr. Eskridge is a registered sex offender¹ with charges pending against him,² and as a result he has a bad reputation in the community.

Mr. Eskridge admitted to the Court that he is a registered sex offender, but, that his conviction for unlawful sexual contact occurred in 1995, when he 15 and the victim

¹ According to the Delaware Child Predator Unit, Mr. Eskridge is not classified as a Tier II or Tier III sex offender. Therefore, in accordance with 11 *Del. C.* § 4121(a)(3), his name does not appear on the Delaware Central Sex Offender Registry, which is available online to the public.

² As indicated at the hearing, the Court will not consider any pending charges against Mr. Eskridge in its opinion.

Ms. Sherena DeLeon
Mr. Brandon Eskridge
July 20, 2010
Page Three

was 14. Mr. Eskridge also denied any alcohol or drug abuse. He testified that he believes the true reason for Ms. DeLeon's petition for name change is because she is upset that he remarried and has a new child.

Ms. DeLeon attested to the procedural statutory requirements for a name change during her testimony. The petition was verified and duly noticed in the *Dover Post* pursuant to Delaware statute. *See* 10 Del. C. Ch. 59.

It is recognized by legal and psychiatric authorities that changing the surname of a child of divorced parents may contribute to the estrangement of the child from his or her non-custodial parent. *In re Gibbs*, 2008 WL 5160141, at *3 (Del. Com. Pl.). The bond between the non-custodial parent and his children in circumstances such as this one, which is tenuous at best, may be weakened, if not destroyed, if their name is changed. *Id.* Therefore, "the court should not foster any unnatural barrier between the respondent and [his children]." *Id.* (internal quotation omitted).

The legal standard for change of name petitions for minors is whether the name change is in the best interests of the child. *In re Change of Name of Smith*, 2003 WL 23469571, at *4 (Del. Com. Pl.). "Clearly what constitutes the 'best interests of the child' involves a factual analysis involving the relationship and family structure of the minor." *Id.* To determine if the best interests of the child would be served by granting a proposed name change, the Court considers the following ten factors:

1. A parent's failure to financially support the child;
2. A parent's failure to maintain contact with the child;
3. The length of time that a surname has been used for or by the child;
4. Misconduct by one of the child's parents;
5. Whether the proposed surname is different from the surname of the child's custodial parent;

6. The child's reasonable preference for a surname;
7. The effect of the change of the child's surname on the preservation and development of the child's relationship with each parent;
8. The degree of community respect associated with the child's present surname and proposed surname;
9. The difficulties, harassment or embarrassment that the child may experience from bearing the present or proposed name;
10. The identification of the child as a part of the family unit.

Id.

After considering the ten factors for determining whether Ayonna and Aysia's best interests would be served by granting the proposed name change, the Court finds that Ms. DeLeon has not met that burden by a preponderance of the evidence. Although his child support payments are in arrears, there appears to be a legitimate reason for the arrearage and Mr. Eskridge has provided financial support to the children. There was no evidence proffered at the hearing to indicate that Mr. Eskridge has been violent toward Ms. DeLeon or the children. Furthermore, Mr. Eskridge visits with the children at his mother's home and the children seem to have a close connection to Mr. Eskridge's family, particularly his mother.

Mr. Eskridge's status as a registered sex offender was considered and rejected by the Court as a compelling reason to change the children's name. Mr. Eskridge has been a registered sex offender for approximately 15 years. He was a registered sex offender before Ms. DeLeon decided to have children with him. It is only now that Ms. DeLeon considers his status to be detrimental to the children. Furthermore, since his name does not appear in the official on-line registry, his name would not be widely known in the community as a sex offender.

Given all these considerations, the Court finds that changing Ayonna and Aysia's last name from Eskridge to DeLeon is not warranted at this time as in their best interests.

Ms. Sherena DeLeon
Mr. Brandon Eskridge
July 20, 2010
Page Five

Therefore, the petitions to change their names are denied. Ms. DeLeon may file another petition, for consideration by the Court, when Aysia reaches the age of 14 and can express her wishes³, or if Mr. Eskridge's sex offender status or criminal record changes to the extent that it would affect the Court's analysis of the facts and law in this case.

IT IS SO ORDERED THIS 20th DAY OF JULY, 2010.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles W. Welch, III". The signature is fluid and cursive, with the first name "Charles" being the most prominent.

Charles W. Welch, III

CWW:mek

³ When a minor is over the age of 14, he or she is required to sign the name change petition. 10 *Del. C.* § 5902. A minor who signs the name change petition is asked to testify at the hearing. *See, e.g. In re Gibbs*, 2008 WL 5160141 (Del. Com. Pl.).